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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 2011-443

13 **GERALD RUD, a.k.a. GERALD ARTHUR**  
14 **RUD, a.k.a. GERALD ARTHUR RUD**  
800 W. Queen Creek Rd  
Unit 2018  
15 Chandler, AZ 85248

**STATEMENT OF ISSUES**

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
21 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
22 Department of Consumer Affairs.

23 2. On or about February 10, 2010, the Board of Registered Nursing, Department of  
24 Consumer Affairs received an application for a Registered Nursing License from Gerald Rud,  
25 also known as Gerald Arthur Rud, also known as Gerald Arther Rud (Respondent). On or about  
26 February 10, 2010, Respondent certified under penalty of perjury to the truthfulness of all  
27  
28

1 statements, answers, and representations in the application. The Board denied the application on  
2 August 9, 2010.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, under the authority of the following laws. All section  
6 references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY/REGULATORY PROVISIONS

8 4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part,  
9 that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant  
10 has committed any acts constituting grounds for denial of licensure under section 480 of that  
11 Code.

12 5. Section 480 of the Code states:

13 "(a) A board may deny a license regulated by this code on the grounds that the applicant  
14 has one of the following:

15 "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
16 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a  
17 board is permitted to take following the establishment of a conviction may be taken when the  
18 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
19 an order granting probation is made suspending the imposition of sentence, irrespective of a  
20 subsequent order under the provisions of Section 1203.4 of the Penal Code.

21 ...

22 "(3) Done any act which if done by a licensee of the business or profession in question,  
23 would be grounds for suspension or revocation of license.

24 "The board may deny a license pursuant to this subdivision only if the crime or act is  
25 substantially related to the qualifications, functions or duties of the business or profession for  
26 which application is made."

1       6.    Section 2761 of the Code states:

2       “The board may take disciplinary action against a certified or licensed nurse or deny an  
3 application for a certificate or license for any of the following:

4       “(a) Unprofessional conduct, which includes, but is not limited to, the following:

5       ...

6       “(f) Conviction of a felony or of any offense substantially related to the qualifications,  
7 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
8 conclusive evidence thereof.”

9       7.    California Code of Regulations, Title 16, section 1444, states, in pertinent part:

10       “A conviction or act shall be considered to be substantially related to the qualifications,  
11 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
12 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
13 safety, or welfare.”

14                               FIRST CAUSE FOR DENIAL OF APPLICATION

15                               (Unprofessional Conduct – Convictions)

16                               (Bus. & Prof. Code §§ 480(a)(1), 2761(f))

17       8.    Respondent’s application is subject to denial under Code sections 480, subdivision  
18 (a)(1), and 2761, subdivision (f), in that he was convicted of offenses substantially related to the  
19 qualifications, functions, and duties of a Registered Nurse, within the meaning of California Code  
of Regulations, title 16, section 1444. The circumstances are as follows:

20           a.    On or about February 11, 1987, in a criminal proceeding in the District Court  
21 for the County of Grand Forks entitled *The State of North Dakota vs. Gerald A. Rud*, Information  
22 Number C17-87, Respondent was convicted by guilty plea of violating North Dakota Century  
23 Code sections 12.1-22-02 and 12.1-32-01(4) (burglary), a felony. The circumstances are that on  
24 or about November 27, 1986, Respondent willfully entered and remained in a trailer home located  
25 at Northland Mobile Homes, Grand Forks, North Dakota, with the intent to commit a theft. On or  
26 about April 6, 1987, Respondent was sentenced to one year in the North Dakota State Farm at  
27 Bismarck. Respondent was ordered to serve 60 days in G.F. County Correctional Center, with the  
28

1 remainder of his sentence suspended for two years. Respondent was also sentenced to two years  
2 of supervised probation upon release.

3           b. On or about August 6, 1990, in a criminal proceeding in the State of Minnesota  
4 District Court for the County of Polk in the Ninth Judicial District entitled *The State of Minnesota*  
5 *v. Gerald Arthur Rud*, File Number K3-87-1080, Respondent was convicted by guilty plea of  
6 violating Minnesota Penal Code sections 609.52(2)(1), 609.52(3)(3)(a), and 609.52(3)(7) (felony  
7 theft), a felony. The circumstances are that on or about August 19, 1987, and on or about August  
8 28, 1987, Respondent took money from Point Discount in East Grand Forks, Minnesota without  
9 the consent of any officer or employee of Point Discount, and with the intent to permanently  
10 deprive Point Discount of possession of the money. On or about August 28, 1990, Respondent  
11 was sentenced to 12 months and one day in jail with the execution of his sentence stayed for five  
12 years. Respondent was also sentenced to probation under the supervision of the Tri-County  
13 Community Corrections Authority.

14           c. On or about August 5, 1993, in a criminal proceeding in the Municipal Court of  
15 California in the Santa Clara County Judicial District entitled *The State of Minnesota v. Gerald*  
16 *Arthur Rud*, Case Number E9380913, Respondent was convicted by plea of no contest of  
17 violating California Penal Code sections 484 and 487.1 (grand theft), a felony. The  
18 circumstances are that on or about May 29, 1993, Respondent unlawfully took personal property  
19 exceeding \$400.00 from Richard Newmark. On or about August 31, 1993, Respondent was  
20 sentenced to 10 months in the county jail, with three days credit for time served. Respondent was  
21 further sentenced to five years of formal probation, ordered to pay fines, and ordered to stay away  
22 from the victim.

23           d. On or about February 2, 1999, in a criminal proceeding in the Municipal Court  
24 of California in the Santa Clara County Judicial District entitled *The People of the State of*  
25 *California v. Gerald Arthur Rud*, Case Number C9875531, Respondent was convicted by plea of  
26 no contest of violating California Vehicle Code section 14601.5 (driving on a suspended license),  
27 a misdemeanor. The circumstances are that on or about January 26, 1998, Respondent drove a  
28 vehicle while his driving privilege was suspended and revoked pursuant to Vehicle Code Section

1 13353, with knowledge of the suspension and revocation. On or about February 16, 1999,  
2 Respondent was ordered to pay a fine.

3 e. On or about July 14, 2003, in a criminal proceeding in the Superior Court of the  
4 State of Arizona, County of Maricopa, entitled *The People of the State of Arizona v. Gerald A.*  
5 *Rud*, Case Number 2002-093457, Respondent was convicted by guilty plea of violating Arizona  
6 Revised Statutes sections 28-1381(A)(1), 28-1383(A)(1), 28-3304, 28-3305, 28-1383(J)(2), 28-  
7 1461, 13-701, and 13-801 (driving while under the influence of intoxicating liquor, any drug, a  
8 vapor releasing substance containing a toxic substance or any combination thereof, and while his  
9 driver's license or privilege to drive was suspended, canceled, or revoked), a felony. The  
10 circumstances are that on or about October 6, 2000, Respondent drove, or was in actual physical  
11 control of a vehicle while under the influence of intoxicating liquor, any drug, a vapor releasing  
12 substance containing a toxic substance, or any combination of liquor, drugs, or vapor releasing  
13 substance while his driver's license or privilege to drive was suspended, cancelled, revoked or  
14 refused, or in violation of a restriction placed on his driver's license as a result of violating one of  
15 several Arizona Revised Statutes. On or about July 29, 2003, Respondent was sentenced to four  
16 months in the Arizona Department of Corrections. Respondent was also sentenced to five years  
17 of probation and ordered to pay restitution, fines, and fees.

18 f. On or about July 6, 2010, in a criminal proceeding in the Superior Court of  
19 Santa Clara entitled *The People of the State of California v. Gerald Arther Rud, a.k.a. Gerald*  
20 *Arthur Rud*, Case Number E1007495, Respondent was convicted by plea of no contest of  
21 violating California Penal Code sections 484 and 488 (petty theft), a misdemeanor. The  
22 circumstances are that on or about October 8, 2009, Respondent unlawfully took personal  
23 property exceeding \$400.00 from Mariann Wells. On or about July 6, 2010, Respondent was  
24 sentenced to 60 days in jail with nine days credit for time served. Respondent was also sentenced  
25 to one year of court-supervised probation.

1                                    SECOND CAUSE FOR DENIAL OF APPLICATION

2                                    (Unprofessional Conduct)  
3                                    (Bus. & Prof. Code § 2761(a))

4            9.    Complainant realleges the allegations contained in paragraph 8, subdivisions (a)  
5            through (f) above, and incorporates them as if fully set forth.

6            10.   Respondent's criminal convictions for burglary, as alleged in paragraph 8,  
7            subdivision (a); felony theft, as alleged in paragraph 8, subdivision (b); grand theft, as alleged in  
8            paragraph 8, subdivision (c); driving on a suspended license, as alleged in paragraph 8,  
9            subdivision (d); driving while under the influence of intoxicating liquor, drug, or any vapor-  
10           releasing substance, as alleged in paragraph 8, subdivision (e); and petty theft, as alleged in  
11           paragraph 8, subdivision (f), constitute unprofessional conduct within the meaning of Code  
12           section 2761, subdivision (a).

13                                    THIRD CAUSE FOR DENIAL OF APPLICATION

14                                    (Act Which if Done by Licentiate Would be Grounds for Suspension or Revocation)  
15                                    (Bus. & Prof. Code § 480(a)(3))

16            11.   Complainant realleges the allegations contained in paragraphs 8 through 10 and their  
17            subparts above, and incorporates them by reference as if fully set forth here.

18            12.   Respondent's application is subject to denial under Code section 480, subdivision  
19            (a)(3), in that Respondent committed acts, which if done by a licentiate of the business or  
20            profession in question, would be grounds for suspension or revocation of license. The  
21            circumstances are more particularly set forth in Paragraphs 8 through 10 and their subparts,  
22            above.

23                                    MATTERS IN AGGRAVATION OF DENIAL OF APPLICATION

24            13.   In or about 1984, Respondent was convicted of unauthorized use of a motor vehicle, a  
25            misdemeanor, in the State of North Dakota.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Denying the application of Gerald Rud, also known as Gerald Arthur Rud, also  
5 known as Gerald Arther Rud for a Registered Nursing License;

6 2. Taking such other and further action as deemed necessary and proper.

7 DATED: 11-10-10



8 LOUISE R. BAILEY, M.ED., RN  
9 Interim Executive Officer  
10 Board of Registered Nursing  
11 Department of Consumer Affairs  
12 State of California  
13 Complainant

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